

To: McWhirter, Lisa[McWhirter.Lisa@epa.gov]
From: Boomgaard, Craig
Sent: Mon 8/26/2013 7:37:20 PM
Subject: FW: ND REQUESTS AUTHORITY TO OVERSEE CO2 SEQUESTRATION WELL PERMITTING

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From: Cheung, Wendy
Sent: Monday, August 26, 2013 7:11 AM
To: Boomgaard, Craig
Cc: Minter, Douglas
Subject: FW: ND REQUESTS AUTHORITY TO OVERSEE CO2 SEQUESTRATION WELL PERMITTING

FYI

From: Graves, Brian
Sent: Friday, August 23, 2013 12:22 PM
To: Kobelski, Bruce; Bayer, MaryRose; McDonald, Jeffrey; Cheung, Wendy; Cole, Larry; McManus, Fred; Dellinger, Philip; McKenzie, Susie; Johnson, Ken-E; Brown, Jamesr; Yarbrough, James; Lawrence, Rob; Hildebrandt, Kurt; Robin, George; Cutler, Thor; Platt, Steve; Rectenwald, David; Roy, Stephen
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Tamar Hallerman

GHG Monitor

8/23/13

PITTSBURGH—North Dakota has become the first state to apply for primacy to oversee the permitting of geologic sequestration wells under the Environmental Protection Agency's Underground Injection Control (UIC) program more than two and a half years after the well class was finalized by the agency. EPA published the North Dakota Industrial Commission's primacy application—which requests enforcement authority for UIC Class VI injection wells for the geologic sequestration of CO₂—in the *Federal Register* earlier this month, opening up the document for public comment through Sept. 9.

During a speech here at the National Energy Technology Laboratory's Carbon Storage R&D meeting this week, CCS Supervisor at the North Dakota Industrial Commission Kevin Connors said the state has made it a priority to gain Class VI primacy. He compared transposing the Class VI regulations with North Dakota's preexisting laws and regulatory structure as trying to push a square peg into a round hole. "The round hole is really what North Dakota has done with its regulations, legislation and resource management framework and this square peg is the federal Class VI rule. What we're really trying to do is to put that square peg in that round hole and make it work," Connors said. "But what's the point of regulations if we can't develop or permit a project? As much as regulations need to protect the environment, they also need to work for an industry so that there is an industry. The solution in North Dakota is to get Class VI primacy."

No Other States Have Applied for Primacy

North Dakota is the only state that has requested primacy for Class VI wells under EPA's UIC program, even though the classification has been finalized since December 2010. As a result, EPA is currently overseeing all Class VI permitting—which requires that wells used for geologic sequestration undertake extensive site characterization, well construction and long-term monitoring and financial responsibilities—on its own. While that gives EPA more direct control of the program, it also impacts the agency since it further stretches its already limited financial resources, according to one legal source. States, if they were to apply for and be granted primacy, could use block grants from EPA to run such permitting programs on their own, while being able to incorporate more flexibility under their individual state structures.

The lack of state interest so far could be attributed to the fact that only two Class VI permit applications have been submitted to date—and none granted—for CO₂ sequestration projects. EPA's Region Five is currently reviewing Class VI applications for FutureGen 2.0 and Archer Daniels Midland's ethanol capture project (that application has been combined with a separate but related regional partnership injection project currently underway in Decatur, Ill.). In order to avoid many of the stringent Class VI requirements, some project developers have instead sought Class II enhanced oil recovery well permits since they are widely considered easier to adhere to in terms of long-term monitoring.